

UNITED STATES DISTRICTS COURT  
 NORTHERN DISTRICT OF FLORIDA  
 PANAMA CITY DIVISION

**LEGAL MAIL**  
 PROVIDED TO  
 FLORIDA STATE PRISON  
 DATE 9-19-06 FOR MAILING.  
 INMATES INITIALS RB

RAMON ARMAS BORRUTO, JR.  
 Plaintiff,

vs.

CASE NO: 5:04CV165-RH

L. McDONALD, PATE,  
MCKENZIE, AND KENT

OFFICE OF CLERK  
 U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF FLORIDA  
 PANAMA CITY, FLA.

2006 SEP 25 AM 11:18

FILED

PLAINTIFF'S RESPONSE TO DEFENDANT'S OBJECTION

The PLAINTIFF, RAMON ARMAS BORRUTO, JR., pro se, files this response to the defendant's objection, pursuant to the notice on this Court's July 20, 2006 order.

BACK GROUND

Plaintiff claims that on November 28, 2002, while in the presence of defendant's Kent, Pate, and MCKENZIE, Defendant McDONALD punched him repeatedly in the stomach, then punched him on the back of his head, and once on his ear. McDONALD placed the plaintiff's head between his legs, grabbed him around his waist, picked him up off the ground and dropped him on his head.

- 1) The Defendants have not proved that the plaintiff's physical condition as documented by his medical record was inconsistent with the plaintiff's claim of being dropped on his head.
- 2) Nurse Conger examined the plaintiff; he noted the plaintiff had a small edema or mark on the rear of his head and slight bruising on his left earlobe. The nurse's assessment of on discharging the plaintiff of good is broad and non-descriptive.
- 3) Nurse Kent is personal friends with defendant McDONALD which is part of the reason for her selective amnesia, as well as she doesn't want to jeopardize herself.
- 4) The plaintiff had been clean with no D.R.s. until he was assaulted and battered. Although the plaintiff made two attempts to obtain transfer, one consisting of cutting his wrist, and the other was conspiring with another inmate to "check in". Neither attempt came before the assault. The plaintiff was in distress due to being beaten and threatened, and absent the assault and threats the plaintiff would not have had any reason to do either.
- 5) As for the plaintiff's defendant's allegation of inconsistent statements by the plaintiff, the plaintiff refutes these allegations as false. The plaintiff made several written and verbal sworn affidavits. He made one the same night of the incident. One on December 17, 2006 to the Inspector General. Another in the complaint and amended complaint. None of

them were inconsistent. The only inconsistencies have been written made by staff which were not ~~sworn~~ sworn affidavits, neither were they written by the plaintiff, nor did the plaintiff have any control over what these staff chose to write. Therefore the plaintiff cannot be bound by these statements.

6) The defendants are trying to imply that the plaintiff alleges being struck by defendant McKenzie. At no point has the plaintiff ever alleged that he was struck by McKenzie. The defendants continue trying to confuse the court by fraudulent statements such as these. This one.

7) The plaintiff concedes that the injuries he sustained were not life threatening, but avers that the actions which caused said injuries ~~had~~ were potentially life threatening.

8) The plaintiff made a new claim that he was masturbating while he was talking to Nurse Kent, and that this was the ~~reason~~ defendant's motive. The plaintiff had not previously mentioned this because he was ashamed to mention it and he also was not aware that it was necessary to note it. The plaintiff thought he was only suppose to note the assault.

9) The plaintiff is not retreating from the word slammed but the word dropped is a more accurately descriptive word of the action which occurred.

## ARGUMENT

### I. THE MAGISTRATE HAS NOT ERRED IN FINDING A VIABLE EIGHTH AMENDMENT CLAIM.

The standard for finding either for or against an Eighth Amendment claim is not the extent of the injury. Prisoners need not prove a serious or significant injury to establish an Eighth Amendment claim. The degree of injury is "relevant to the Eighth Amendment inquiry, but does not end it." See Hudson v. McMillian 503 U.S. 32, 39, 112 S.Ct. 995, 998-99; and McHenry v. Chadwick 896 F.2d 184, 187. The defendants based on their claim of the magistrate erring due to "the plaintiff demonstrating no more than de minimis injury. The aforementioned nullifies the defendants erroneous claim.

The controlling case law further proves the contrary. The standard for determining whether force violates the Eighth Amendment depends entirely on whether it was "applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm. See Hudson v. McMillian Supra; and Whitley v. Albers 475 U.S. 312, 319, 106 S.Ct. 1078, 1084, 89 L.Ed.2d 251. When prison officials use force maliciously and sadistically to cause harm, "see contemporary standards are always violated, unless the 'force', not the injury, is de minimis. A Correctional officer unnecessarily beating an inmate who has cuffs on, when no use of force was necessary does not constitute de minimis force.

The defendant's concede that "Courts have not foreclosed relief under the Eighth Amendment where physical injury is absent." See page 6 of the



defendants objection, yet base their Argument on the point of *deminimis* injury. The plaintiff has already demonstrated that the necessary element necessary for an Eighth Amendment claim is the context in which the force was used.

The defendants try to continuously compare this case with Siglar v. Hightower 112 F.3d 191, 193. They ARE not comparable cases. First of All the siglar case consists of an inmate having his ear pinched, with a bruise that lasted 3 days. The plaintiff in the present case was beaten not pinched. The bruised ear the plaintiff sustained, lasted over a week and that's documented by the records. The bruise was noted on 11/29/02 at approx 1:AM, On the medical report. On 12/6/02 the infirmary progress record notes a "greenish-yellow pallor" to the plaintiff's ear. See defendant Q-1 Attached. exhibit Q-1. In siglar the court ruled against the plaintiff because the force used (a pinch), was *deminimis*. This "pinch" is incomparable to a beating.

The defendants refer to the lack of photographic evidence, compared to the Gomez v. Channer 163 F.3d 921. The plaintiff does not have photographic evidence because photo's were not taken. If the photo's would have been taken they would have corroborated the plaintiff's claims. Nurse Conger reported slight bruising and redness. Yet the plaintiff ear still displayed a "greenish-yellow" pallor. Why photo's were not taken, the plaintiff can only say it is because the injuries nurse Conger noted were deliberately diminished. As for his assessment of the plaintiff on discharge was "good", this word is over broad and non-descriptive. Anytime nurses to inmate's don't have any broken bones he's always discharged with the word good circled. Therefore the defendant continual references to this "good" are ~~irrelevent~~ irrelevant.

Due to these facts the Magistrate did not err in finding a viable Eighth Amendment claim. The injury does not preclude such a finding, as the defendants have already conceded. Therefore the court must dismiss this argument.

## II. THE MAGISTRATE DID NOT ERR IN FINDING THAT THE PLAINTIFF IS ENTITLED TO PURSUE A CLAIM FOR PUNITIVE DAMAGES.

The defendant's refer to the P.L.R.A. Titled 42 U.S.C. 1997e(c). This provision states:

"No federal civil action may be brought by a prisoner in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without prior showing of physical injury."

The key words ARE that no federal action may be brought, "for mental or emotional injury". The P.L.R.A. applies to actions for mental or emotional injury. This provision may only preclude damages for mental or emotional claims. This provision does neither effects damages compensatory nor punitive, for physical injury and violation of their

Constitutional rights Congress made the obvious determination that suits brought solely for mental or emotional injury were more likely to be without merit than cases in which a prisoner sustains some kind of injury. See HARRISS v GARDNER 216 F.3d 970, at 1005-06.

In the present case the plaintiff sought damages for both physical injury, as well as mental and emotional injury. The P.L.R.A. may only preclude or nullify claims for mental or emotional injury. See Osterback v. Ingram 13 Fla. L. Weekly D133, 2000 WL 297840 (N.D. Fla. 2000), Aff'd 263 F.3d 169 (11 Cir. 2001) (en banc), cert. denied 536 U.S. 906, 122 S.Ct. 2362, 153 L.Ed.2d 183 (2002) (holding that a prisoner may not recover compensatory or punitive damages for mental or emotional injury without establishing that he suffered more than de minimis physical injury). The plaintiff may still seek damages for compensatory and punitive damages for physical injury. ~~Either~~ There is no case law prohibiting or precluding damages for physical injury. Either way the plaintiff would still be able to seek nominal and punitive damages. See Allan v. Al-Hafseez 226 F.3d 247, and SEARLES v VAN BEBBEE 251 F.3d 861. Therefore de minimis injury standards only apply to claims for mental or emotional injury. See Molton v. City of Cleveland 834 F.2d 240, 249-50; and Williams v. Omdt 640 F.2d 120, 121-23.

Therefore the plaintiff has alleged physical injury and he is entitled to compensatory and punitive damages. As for his emotional and mental injury claims, if the Court were to determine that the plaintiff suffered de minimis injury and prohibit compensatory damages, the plaintiff may still seek punitive and nominal damages.

### III. PLAINTIFF HAS SUFFICIENTLY CARRIED HIS BURDEN IN SUMMARY JUDGMENT.

The defendants have failed to produce significant other evidence to indicate the plaintiff's claims are untruthful. That is impossible since this event occurred and no matter how talented the defendants' lawyers are at distorting the truth and making it seem contrary to the truth, they cannot change the fact that defendant McDonald beat the plaintiff in the presence of the rest of the defendants. The plaintiff's claims are not incredible. The defendant's have provided no evidence that a person cannot be dropped on his head without causing fracture, or a significant injury. The defendants cannot prove this to be impossible, especially when their lawyer do not know exactly how and from what height the plaintiff was dropped. The plaintiff has not retreated by referring to relevant factors necessary to determine if the plaintiff's claims are true. The plaintiff is not retreating but contradicting the defendant's claim which they ignorantly infer based on their interest and not on actual fact. To expect for them to be able to substantiate their allegations, they would have to base it on facts such as the exact height, the spot of the head that ~~there~~ hit the floor, how much force was used in the act, etc. Without knowing these facts their assumptions are ignorantly made and without basing their allegations on these facts, they're just basing their allegations on speculations favorable to their themselves.

Therefore the plaintiff has shown that there are genuine issues of fact present and summary judgement is unwarranted. Issues of fact are namely whether the plaintiff was beaten or not by Defendant McDonald, in the presence of the other defendants. There is evidence supporting the plaintiff's claims. Said evidence is clearly more than a "scintilla" and due to there being a genuine issue for trial the plaintiff has sufficiently carried his burden and summary judgement cannot be granted. The facts must be viewed in light most favorable to the plaintiff, the not-moving party.

The plaintiff's chief support for his claims on top of them being fact, are the following:

- 1) The various sworn written and recorded affidavits
- 2) The medical report made on 11/24/02 at approximately 11AM by Nurse Longier.
- 3) Another medical report made 12/18/02.
- 4) Nurse Kent Affidavit fails to allege that she never witnessed an inmate being beaten, just that she doesn't remember it the way the plaintiff claims it to have occurred.
- 5) That inmates are not pulled out for routine sick call on weekends or holidays. The date the plaintiff was beaten was Thanksgiving, a holiday, and no routine sick call was conducted. In addition to this inconsistency, supporting evidence is the fact that Nurse Kent not possessing the plaintiff's medical file as required by sick call procedures. Inmates are not seen for routine sick call when without the sick call nurse being in possession of the inmate's medical file.
- 6) That the defendants first claimed that the plaintiff never came out of his cell. They even provided fraudulent evidence to the court by way of the Inspector General's report claiming the video camera tape never showed anyone come in or out of the plaintiff's cell.
- 7) The defendants later retreated from this allegation and said the plaintiff was taken out for a routine sick call.
- 8) The evidence of the defendants clearly contradict each other and show the fraudulence of these allegations.
- 9) The factual discrepancies have all come from the defendants.
- 10) The plaintiff's few affidavits are all consistent.

The plaintiff's few affidavits & claims are neither magnified nor fantastic. On the contrary, the defendants' claims are magnified, contradictory, and based on speculation. Therefore the plaintiff has sufficiently refuted the defendants' allegations in their summary judgement and objections, and the court should deny both the summary judgement and objection.

### CONCLUSION

WHEREFORE, the Plaintiff provides the following reasons against the defendants' allegations, refuting both the summary judgement and objection of the defendants, in support of this court's previous ruling.



OATH OF VERIFICATION

UNDER PENALTIES OF PERJURY, I RAMON ARMAS BERRATO, JR., SWEAR THAT I have read the foregoing and that it is true and correct.

9/19/06

R. B. B.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the foregoing has been delivered to the hands of an institution official to be mailed by U.S. MAIL to Joy A Stubbs, at the Office of the Attorney General, The Capitol - PLOI, Tallahassee, Florida, 32399-1050

On this 19 day of September, 2006

R. B. B.

RAMON BERRATO X21467

F.S.P. M-1315

7819 N.W. 22<sup>ND</sup> ST.

RAIFORD, FL 32026

**REPORT OF INVESTIGATION  
OFFICE OF THE INSPECTOR GENERAL  
DEPARTMENT OF CORRECTIONS**

**INVESTIGATION # 02-13942**

**CORRECTIONAL INVESTIGATOR:** Tim Yaw

**DATE OF REPORT:** March 5, 2003

**DATE OF INCIDENT:** November 28, 2002

**CLASSIFICATION OF COMPLAINT/INCIDENT:** Physical Abuse

**LOCATION:** Washington Correctional Institution

**COMPLAINANT:** Scott, Timothy  
Correctional Officer Captain  
W/M, DOB: 10/28/62

**VICTIM(S):** Borroto, Ramon  
DC# X27467  
W/M, DOB: 11/22/81

**SUBJECT(S):** McDonald, Larry  
Correctional Officer  
B/M, DOB: 11/08/53

**WITNESS(ES):** McKenzie, Channing  
Correctional Officer Sergeant  
W/M, DOB: 12/07/67

Pate, Harold  
Correctional Officer  
W/M, DOB: 01/07/69

Kent, Donna  
Sr. Licensed Practical Nurse  
W/F, DOB: 08/08/64

Butts, Travis  
Correctional Officer  
W/M, DOB: 07/06/69

**EXHIBIT 1**

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**WITNESSES CONTINUED:**

Anderson, Cleo  
Correctional Officer  
W/M, DOB: 06/15/50

Speights, Mervis  
Correctional Officer  
B/M, DOB: 06/01/67

Brooks, David  
DC#-982838  
B/M, DOB: 07/17/73

**CASE SUMMARY:**

Inmate Borroto reported to Captain Scott on November 29, 2002, at about 12:15am, that he had been physically abused on the morning of November 28, 2002. Captain Scott reported the information, which was later forwarded to the Tallahassee Field Office on December 2, 2002. The case was assigned to Inspector Jon Kraus on December 2, 2002, and reassigned to Inspector Tim Yaw on January 27, 2003.

Captain Scott reported that he was making his rounds in "G" dormitory at about 12:15am on November 29, 2002, when Inmate Borroto told him that he had been abused earlier the day before. He had Inmate Borroto examined by medical where it was found that Inmate Borroto had a bruised left ear lobe with redness. Inmate Borroto stated to investigators that he was taken from his cell at about 8:45am, on November 28, 2002, and into the hearing room where Officer McDonald hit him with his fists and then picked him up, turned him "upside down" and dropped him on his head. When Officer McDonald attempted to hit his head on the floor again, Nurse Kent told him to stop. Sergeant McKenzie and Officer Pate were also in the room at the time. Inmate Borroto was transferred to Santa Rosa Correctional Institution on December 19, 2002.

Sergeant McKenzie, Officer Pate and Nurse Kent stated that the incident did not happen as did Officers Butts, Anderson and Speights who were on duty in "G" dormitory on November 28, 2002. Officer McDonald denied physically abusing Inmate Borroto. Inmate David Brooks was Inmate Borroto's cellmate at the time and he refused to give a statement.

Inmate Borroto was given a Computerized Voice Stress Analysis (CVSA) which indicated he was not deceptive when he responded "Yes" when he was asked if other staff were present when Officer McDonald hit him and if Nurse Kent was present when Officer McDonald dropped him on his head.



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Review of the video tape-recording of quad four in "G" dormitory during the morning of November 28, 2002, revealed that Inmate Borroto was not taken out of his cell and that no one entered his cell.

**SUBJECT: Larry McDonald, Correctional Officer**

The evidence obtained during the course of this investigation is not sufficient to support the allegation of *Physical Abuse* by Officer McDonald. This is based on the following:

- **Witness Statements:**

Inmate Ramon Borroto stated that he was taken out of his cell at about 8:45am, on November 28, 2002, and into the hearing room where Officer McDonald hit him with his fists and then picked him up, turned him "upside down" and dropped him on head. When Officer McDonald attempted to hit his head on the floor again, Nurse Kent told him to stop.

Sergeant Channing McKenzie, Officer Harold Pate and Nurse Donna Kent indicated that the alleged incident did not occur.

Officers Travis Butts, Cleo Anderson and Mervis Speights were on duty in "G" dormitory on November 28, 2002, and they indicated that they did not see Inmate Borroto being abused, nor did they remember him coming out of his cell that day.

Inmate David Brooks would not give a statement concerning the incident.

- **Written Documents:**

A CVSA report from Inspector James Keen indicated that Inmate Borroto was not deceptive when he answered "Yes" when he was asked if other staff were present when Officer McDonald hit him and if Nurse Kent was present when Officer McDonald dropped him on his head.

- **Other Pertinent Information:**

Review of the video tape-recording of quad four in "G" dormitory during the morning of November 28, 2002, revealed that Inmate Borroto was not taken out of his cell and that no one entered his cell between the hours of 7:00am and 11:00am.

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- **Subject Statements:**

**Officer Larry McDonald** denied physically abusing Inmate Borroto.

**ALLEGATION:**

Inmate Ramon Borroto alleged that Officer Larry McDonald physically abused him on the morning of November 28, 2002, in "G" dormitory.

**FINDING(S):**

In an affidavit taken on November 29, 2002, and during a sworn, tape-recorded interview conducted on December 19, 2002, Inmate Ramon Borroto indicated the following:

At about 8:45am, on November 28, 2002, he was taken out of his cell by Officers McDonald and Pate and escorted to the hearing room. Sergeant McKenzie and Nurse Kent were in the room when they arrived. Officer McDonald began hitting him in the stomach and head, while the others watched. Officer McDonald then put his (*Borroto's*) head between his knees and grabbed him by his feet, slamming his head into the floor. As Officer McDonald grabbed his feet to slam his head into the floor again, Nurse Kent told him to stop. Nurse Kent and Sergeant McKenzie left the room and Officers McDonald and Pate escorted him back to his cell. He reported the incident on November 29, 2002, to Captain Scott who was the supervisor of the midnight shift. He received a bruise on his left ear from the abuse. (Exhibit A-1) (Exhibit B-1)

In an incident report dated November 29, 2002, Captain Timothy Scott reported the following:

At about 12:10am on November 29, 2002, Inmate Borroto declared a medical emergency during which he stated that four officers took him into the "room with no cameras" at about 8:45am, on November 28, 2002, and Officer McDonald hit him and slammed his head into the floor. Inmate Borroto indicated that Nurse Kent was present during the incident. He had Inmate Borroto examined by the medical department. (Exhibit A-2)

Medical records indicated that Inmate Borroto was examined by Nurse Conger at 12:26am, on November 29, 2002, and he was found to have a small edema or mark on the rear of his head and slight bruising and redness on his left ear lobe. (Exhibit A-3)

Inspector James Keen conducted a Computerized Voice Stress Analysis (*CVSA*) on Inmate Borroto. In his report dated January 15, 2003, Inspector Keen indicated that Inmate Borroto was not deceptive when he answered "Yes" when asked if other staff were present when McDonald hit his ear and if Nurse Kent present when McDonald dropped him on his head. (Exhibit A-4)

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Records revealed that Officers Travis Butts, Cleo Anderson and Mervis Speights were on duty in "G" dormitory on the morning of November 28, 2002, and they gave sworn, tape-recorded statements on February 4, 2003, indicating they did not witness any abuse of Inmate Borroto.

(Exhibits B-2, B-3 & B-4)

During sworn, tape-recorded interviews conducted on February 4, 2003, Nurse Donna Kent, Sergeant Channing McKenzie and Officer Harold Pate indicated that they were not in a room with Inmate Borroto or any other inmate when such an incident happened. All said they did not see Inmate Borroto get physically abused.

(Exhibits B-5, B-6 & B-7)

Records revealed that Inmate David Brooks was Inmate Borroto's cellmate on November 28, 2002, and upon attempting to interview him on February 18, 2003, concerning the allegation, he refused to give a statement.

Records revealed that Inmate Borroto was housed in "G" dormitory, quad four, cell 101 lower, on November 28, 2002. Review of the video tape-recording of quad four from 7:00am until 11:00am on that date, revealed that Inmate Borroto did not come out of his cell, nor did anyone enter his cell during that time. The video revealed Officers McDonald and Speights entering the quad at 8:43am to conduct a security check. They departed the quad at 8:46am. Nurse Kent did not enter the quad during that time.

(Exhibit B-9)

"G" dormitory logs for November 28, 2002, recorded activity that was consistent with the video recording of quad four. The logs indicated that Nurse Kent entered "G" dormitory for sick call rounds, but it was not indicated at what time she departed the dormitory.

(Exhibit A-5)

During a sworn, tape-recorded interview conducted on February 4, 2003, Officer Larry McDonald indicated that he did not know Inmate Borroto and he denied physically abusing him or any other inmate.

(Exhibit B-8)



INVESTIGATION # 02-13942

SIGNATURE:

[Signature]  
Senior Inspector

2-27-03  
Date

REVIEWED BY:

[Signature]  
Inspector Supervisor

2/27/03  
Date

Douglas P. Stephen  
Chief Inspector

3/3/03  
Date

STATE OF FLORIDA  
DEPARTMENT OF CORRECTIONS

PLEASE PRINT

## EMERGENCY ROOM RECORD

## AUTHORIZATION FOR HEALTH CARE SERVICES

The undersigned, a patient in this health care facility, has had explained to me and understand the nature of my condition. I hereby authorize the medical staff to administer such treatment as is necessary, and to perform evaluation and treatment and such additional health care services as are considered necessary on the basis of findings during the course of said health care service. Any tissue or parts surgically removed may be disposed of by the facility in accordance with accustomed practice. I hereby certify that I have read and fully understand the above authorization for health care services, the reasons why the above-named health care service is considered necessary, its advantages and possible complications, if any, as well as possible alternative modes of treatment, which were explained to me by J. Conger SRN. I also certify that no guarantee of assurance has been made as to the results that may be obtained.

Signature of Patient

X *J. Conger*Date 11-29-02 Time 0026

Witness Signature/Stamp

*J. Conger*

J. CONGER, SRN

Washington CI

Date 11-29-02 Time 0026

Brief History:

*I am alleges assault by staff @ approx. 0845 on 11-28-02.**See DC4-708. States he was hit on back of head, ears, & abdomen.*

If accident, state where, when and how injured; If illness, describe:

VS: T 96 °F P 96 /Min. R 20 /Min. BP 140, 92Wt. 140 lbs.

Condition on Admission (Circle):

Good

Fair

Poor

Shock

Bleeding

Comatose

Findings/Treatment:

*Roar of head + abd. 5 edema or marks. @ ear lobe E bruising, edema + approx. 1cm red line.*

Labs Ordered:

Ø

Therapy Ordered:

Ø

Lab Reports:

Ø

Inmate Response to Treatment:

*WNL*

Diagnosis:

*alleged assault*

Condition on Discharge:

*good.*

Discharge Instructions and Education:

*F/U sick call PRN*

Disposition (Circle):

Population

Confinement

Infirmary

Hospital

Rescue

Other (explain):

Health Care Provider's Signature and Stamp:

*J. Conger*

J. CONGER, SRN

Washington CI

Date/Time: 11-29-02 0026

Reviewing Physician's Signature and Stamp:

*J. Spann*

J. SPANN, MD

CHIEF HEALTH OFFICER

Date/Time:

If

C

C

Ir

E

D

Boroto, Ramon Armas

DC# X27467

W/M DOB: 11/22/81

Allergies: POLLEN, NKDA

Distribution:

White - Health Record

Canary - Emergency Room Record

Pink - Local Requirements

Ex: A-3

EXHIBIT 2

FLORIDA DEPARTMENT OF CORRECTIONS  
 INFIRMARY PROGRESS RECORD  
 Institution: WASHINGTON CORRECTIONAL INSTITUTION

DEFENDANT'S  
 EXHIBIT

Q-1

Date/Time	Discipline (use codes)	INCIDENTAL NOTE: MHISE, MHIFU
02 655-0905 6/02	P Y	S: "I DON'T KNOW WHY (I CUT MYSELF); I DON'T WANT TO TALK ABOUT IT... I DON'T WANT TO KILL MYSELF//SMILING//... I'M FREEZING; THEY TOOK MY BLANKET AWAY... I WAS TEARING UP THE MATTRESS BECAUSE I WAS TRYING TO GET INTO IT TO GET WARM... I WAS HIT IN THE STOMACH & THE HEAD BY OFCR McDONALD IN THAT ROOM (INTERVIEW ROOM) OF G-DORM ON THANKSGIVING MORNING... SGT MACKENZIE, OFFICER PATE, AND NURSE KENT SAW IT... HE HIT MY EAR//DISPLAYS LEFT EAR—NOTED: GREENISH-YELLOW PALLOR//I SWALLOWED A RAZOR THE OTHER DAY; IT WAS ABOUT THIS BIG//GESTURES WITH FINGERS TO INDICATED ABOUT 1/2 INCH IN LENGTH//
2/2		<p>O: 21 y.o. H/M serving 16 years, 6 mos (TRD: 5/29/15) for fleeing or attempting to elude a LEO at high speed or with wanton disregard; grand theft 3<sup>rd</sup> degree of motor vehicle</p> <p><b>SIGNIFICANT MENTAL HEALTH HISTORY:</b>          Inpatient/outpatient treatment prior to prison: NONE          Prison Inpatient: NONE; remanded to FDOC on 11/5/01; classified as S-1 at NFRC; sent to HOLMES CI where he demonstrate poor institutional adjustment as evidenced by the issuance of 17 Disciplinary Reports (DRs) between 1/1/02 and 7/30/02 for obscene/profane act (2), destruction of state property (2), disobeying regulations (2), insufficient work (1), possession of contraband (2), disobeying order (1), disorderly conduct (5), disrespect to officials (1), and lying to staff (1). Inmate Borroto is currently classified as a CMI inmate. Inmate complained, "I'm freezing!" Due to behavioral problems noted on DC6-229b, Inmate Borroto had been placed in an Alternate Medical Cell in G-Dorm due to the lack of an available IMR. His blanket was removed by security for security reasons. He was escorted to an IMR around 9 pm last night where he began to tear at the mattress; nursing and security staff ordered the removal of the mattress around midnight. The inmate proceeded to demand a mattress and blanket and kicked the door most of the night.</p> <p><b>PRIOR PSYCHOLOGICAL TESTING RESULTS:</b>          IQ: Beta-IIR = 117 (11/6/01);          BHS: 0 (11/6/01)          MMPI-2: Not administered</p> <p><b>CURRENT MSE</b>          Appearance/Behavior: well-nourished, well-hydrated, muscular, multiple tattoos, dressed in shroud; adequately groomed; good eye-contact, smiling; no unusual mannerisms or unusual movements observed. Orientation: Alert, oriented to person, place and situation          Speech: rate, tone, articulation were within normal limits. No defects in word production or organization; somewhat resistant to questioning stating he either "did not know" or did not want to discuss concerns. Content of speech primarily focused on obtaining mattress and blanket.          Thinking: No evidence of confusion; clear, logical, coherent; goal-directed, "I want a blanket!"          Attention/Concentration/Memory: Not formally tested, but appears superficially adequate.          Estimation of Cognitive Functioning: Average          Mood/Affect: Focused on answering questions regarding physical comfort as opposed to mood, "I'm freezing!"          Security notes on DC6-229b reflect anger. Current affect: broad.          Perceptual disturbances: Not responding to internal stimuli. Did not endorse A/V hallucinations.          Delusions: Possibly persecutory; claims he was "hit" by an officer in the presence of 3 other FDOC staff.          SI/HI: Did not endorse suicidal ideations. Stated he did not want to kill himself but then stated he swallowed a razor several days ago.          Insight/Judgment: poor/inadequate.</p> <p><b>Brief Psychiatric Rating Scale:</b> No evidence of somatic concern, anxiety, conceptual disorganization, guilt feelings, tension, odd mannerisms or posturing, grandiosity, depressive mood, hostility, suspiciousness, hallucinatory behavior, motor retardation, unusual thought content, blunted affect, excitement, or disorientation.</p>
		<p><b>A: Intellectual Assessment Interpretation:</b> Inmate Borroto's performance on the BETA-IIR is suggestive of intellectual functioning in the high average (bright) range.</p> <p>THIS INMATE HAS NO PRIOR MENTAL HEALTH HISTORY. HE WAS REMANDED TO FDOC WITH A LONG SENTENCE RELATIVE TO HIS AGE. HE ACCUMULATED 17 DR'S AT HOLMES CI WITHIN A SEVEN (7) MONTH TIME FRAME. HE WAS ULTIMATELY SENT TO WASCI FOR PLACEMENT IN</p>

Inmate Name BORROTO, RAMON \*Codes: M= MD/CA/ARNP  
 # X27467 Race/Sex H/M P = PSYCHIATRIST  
 Date of Birth 11/22/81 Y = PSYCHOLOGY  
 Institution WASHINGTON C.I. N = NURSING  
 Allergies  D = DENTAL

S - Subjective Data  
 O - Objective Data  
 A - Assessment S/O Data  
 P - Plan

INFIRMARY PROGRESS RECORD  
 DC4-714A (6/99 Page 1 of 2)

EXHIBIT 3